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Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

Report of the Sixth Committee

Rapporteur: Mr. Isaias **Medina** (Bolivarian Republic of Venezuela)

I. Introduction

1. The item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" was included in the provisional agenda of the seventy-first session of the General Assembly in accordance with Assembly resolution 69/120 of 10 December 2014.

2. At its 2nd plenary meeting, on 16 September 2016, the General Assembly, on the recommendation of the General Committee, decided to include the item in its agenda and to allocate it to the Sixth Committee.

3. The Sixth Committee considered the item at its 10th, 11th and 33rd meetings, on 10 October and on 11 November 2016. The views of the representatives who spoke during the Committee's consideration of the item are reflected in the relevant summary records.[1]

4. For its consideration of the item, the Committee had before it the report of the Secretary-General (A/71/183 and Add.1).

II. Consideration of draft resolution A/C.6/71/L.21

5. At the 33rd meeting, on 11 November, the representative of Sweden, on behalf of Algeria, Argentina, Australia, Austria, Belgium, Canada, Czechia, Denmark, Estonia, Finland, Germany, Greece, Iceland, Ireland, Japan, Latvia, Lebanon,

[1] A/C.6/71/SR.10, A/C.6/71/SR.11 and A/C.6/71/SR.33.

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Liechtenstein, Luxembourg, Mauritius, Monaco, the Netherlands, New Zealand, Norway, Poland, the Republic of Moldova, Romania, Sweden, Switzerland, the United Kingdom of Great Britain and Northern Ireland and the State of Palestine, subsequently joined by France, Ghana, Italy and Lithuania, introduced a draft resolution entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts" (A/C.6/71/L.21).

6. At the same meeting, the representative of the Sudan made a statement in explanation of position before action on the draft resolution.

7. Also at the same meeting, the Committee adopted draft resolution A/C.6/71/L.21 without a vote (see para. 8).

III. Recommendation of the Sixth Committee

8. The Sixth Committee recommends to the General Assembly the adoption of the following draft resolution:

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts

The General Assembly,

Recalling its biennial resolutions on the status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts, including its resolution 69/120 of 10 December 2014,

Having considered the report of the Secretary-General,[1]

Reaffirming the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for those rules in all circumstances within the scope of the relevant international instruments, pending the earliest possible termination of such conflicts,

Stressing the need to consolidate the existing body of international humanitarian law through its universal acceptance and the need for wide dissemination and full implementation of such law at the national level, and expressing concern about all violations of the Geneva Conventions of 1949[2] and the Additional Protocols,[3]

Calling upon Member States to disseminate knowledge of international humanitarian law as widely as possible, and calling upon all parties to armed conflict to apply international humanitarian law,

Noting with satisfaction the increasing number of national commissions and other bodies involved in advising authorities at the national level on the implementation, dissemination and development of international humanitarian law,

Noting with appreciation the meetings of representatives of those bodies organized by the International Committee of the Red Cross, together with relevant partners such as national Red Cross and Red Crescent societies, to facilitate the sharing of concrete experience and the exchange of views on their roles and on the challenges they face,

Stressing the possibility of making use of the International Humanitarian Fact-Finding Commission in relation to an armed conflict, pursuant to article 90 of Protocol I[4] to the Geneva Conventions,

Stressing also the possibility for the International Humanitarian Fact-Finding Commission to facilitate, through its good offices, the restoration of an attitude of respect for the Geneva Conventions and Protocol I,

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[1] A/71/183 and Add.1.

[2] United Nations, *Treaty Series*, vol. 75, Nos. 970-973.

[3] Ibid., vol. 1125, Nos. 17512 and 17513, and vol. 2404, No. 43425.

[4] Ibid., vol. 1125, No. 17512.

Taking note of the fact that, in paragraphs 8 and 9 of its resolution 1894 (2009) of 11 November 2009 on the protection of civilians in armed conflict, the Security Council noted the range of existing methods used, on a case-by-case basis, for gathering information on alleged violations of applicable international law relating to the protection of civilians, underlined the importance in that regard of receiving information that is timely, objective, accurate and reliable, and considered the possibility, to that end, of using the International Humanitarian Fact-Finding Commission established by article 90 of Protocol I,

Noting with appreciation the role of the International Committee of the Red Cross in facilitating and offering protection to the victims of armed conflicts,

Noting with appreciation also the continuing efforts of the International Committee of the Red Cross to promote and disseminate knowledge of international humanitarian law, in particular the Geneva Conventions and the Additional Protocols,

Noting the special responsibilities of national Red Cross and Red Crescent societies, as auxiliaries to the public authorities of their respective States in the humanitarian field, to cooperate with and assist their Governments in the promotion, dissemination and implementation of international humanitarian law,

Welcoming the universal acceptance of the Geneva Conventions of 1949,

Recalling the imperative need to improve compliance with international humanitarian law, recognized by all States at the Thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015,

Welcoming the continued engagement of States in the intergovernmental process, and recalling its State-driven and consensus-based character, aimed at finding ways to enhance the implementation of international humanitarian law,

Noting the close cooperation between the International Committee of the Red Cross and States to further strengthen international humanitarian law protecting persons deprived of their liberty in relation to armed conflict,

Noting also the work undertaken by the International Committee of the Red Cross in relation to sexual violence in armed conflict,

Noting further the work undertaken by States, the International Red Cross and Red Crescent Movement and other actors in the Health Care in Danger project to improve the protection of the provision of and access to health care,

Calling upon all parties to armed conflict to respect and protect the wounded and sick, as well as health-care personnel, humanitarian personnel exclusively engaged in medical duties, and their means of transport and equipment, as well as hospitals and other medical facilities, in armed conflict, in accordance with their obligations under international humanitarian law,

Noting the serious concern expressed by States regarding the humanitarian impact caused by cluster munitions, and noting the entry into force of the Convention on Cluster Munitions[5] on 1 August 2010,

Noting also the entry into force of the Arms Trade Treaty[6] on 24 December 2014,

Welcoming the important contribution to the protection of victims of armed conflicts made by the significant debate generated by the publication in 2005 of the study by the International Committee of the Red Cross on customary international humanitarian law, as well as other recent initiatives by the Committee, welcoming also its efforts to update regularly its customary international humanitarian law database, and looking forward to further constructive discussion on the subject,

Acknowledging the fact that the Rome Statute of the International Criminal Court[7] covers the most serious crimes of international concern under international humanitarian law and that the Rome Statute, while recalling that it is the duty of every State to exercise its criminal jurisdiction over those responsible for such crimes, shows the determination of the international community to put an end to impunity for the perpetrators of such crimes and thus to contribute to their prevention,

Noting the amendments to article 8 of the Rome Statute of the International Criminal Court, relating to war crimes under the Rome Statute, adopted on 10 June 2010 at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010,

Acknowledging the usefulness of discussing in the General Assembly the status of instruments of international humanitarian law relevant to the protection of victims of armed conflicts,

1. *Welcomes* the universal acceptance of the Geneva Conventions of 1949,[2] and notes the trend towards a similarly wide acceptance of the two Additional Protocols of 1977 in the context of their upcoming fortieth anniversary;[8]

2. *Calls upon* all States parties to the Geneva Conventions that have not yet done so to consider becoming parties to the Additional Protocols[3] at the earliest possible date;

3. *Calls upon* all States that are already parties to Protocol I,[4] or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol and to consider making use, where appropriate, of the services of the International Humanitarian Fact-Finding Commission in accordance with the provisions of article 90 of Protocol I;

4. *Calls upon* all States that have not yet done so to consider becoming parties to the Convention for the Protection of Cultural Property in the Event of Armed Conflict and the two Protocols thereto[9] and to other relevant treaties on

[5] Ibid., vol. 2688, No. 47713.
[6] See resolution 67/234 B.
[7] United Nations, *Treaty Series*, vol. 2187, No. 38544.
[8] Ibid., vol. 1125, Nos. 17512 and 17513.
[9] Ibid., vol. 249, No. 3511, and vol. 2253, No. 3511.

international humanitarian law relating to the protection of victims of armed conflict;[10]

5. *Calls upon* States to consider becoming parties to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

6. *Calls upon* all States parties to the Protocols Additional to the Geneva Conventions to ensure their wide dissemination and full implementation;

7. *Affirms* the necessity of making the implementation of international humanitarian law more effective, and supports its further strengthening and development;

8. *Notes with appreciation* the 10 resolutions adopted at the Thirty-second International Conference of the Red Cross and Red Crescent, held in Geneva from 8 to 10 December 2015, in particular resolutions 1 to 4, recalls their importance, as well as the recommendations for further actions therein, in strengthening international humanitarian law, and notes with appreciation in this regard resolution 2, entitled "Strengthening compliance with international humanitarian law", in which the Conference, inter alia, recommended the continuation of an inclusive, State-driven intergovernmental process based on the principle of consensus and in line with the guiding principles of the consultation process to find agreement on features and functions of a potential forum of States and to find ways to enhance the implementation of international humanitarian law;

9. *Welcomes* the activities of the Advisory Service on International Humanitarian Law of the International Committee of the Red Cross in supporting efforts made by Member States to take legislative and administrative action to implement international humanitarian law and in promoting the exchange of information on those efforts between Governments, and reminds Member States of the availability of the manual on domestic implementation of international humanitarian law;

10. *Also welcomes* the increasing number of national commissions or committees for the implementation of international humanitarian law and their work in promoting the incorporation of treaties on international humanitarian law into national law and disseminating the rules of international humanitarian law, and encourages Member States that have not yet done so to consider establishing national commissions or committees with the support of national Red Cross and Red Crescent societies where relevant, to advise and assist Governments in implementing and disseminating knowledge of international humanitarian law;

11. *Requests* the Secretary-General to submit to the General Assembly at its seventy-third session a comprehensive report on the status of the Additional Protocols relating to the protection of victims of armed conflicts, as well as on measures taken to strengthen the existing body of international humanitarian law, inter alia, with respect to its dissemination and full implementation at the national level, based on information received from Member States and the International Committee of the Red Cross;

[10] Ibid., vol. 2173, No. 27531.

12. *Encourages* Member States and the International Committee of the Red Cross, in transmitting information to the Secretary-General, to focus on new developments and activities during the reporting period;

13. *Encourages* Member States to explore ways of facilitating the submission of information for future reports of the Secretary-General and, in this context, to consider the convenience of using a questionnaire as drafted by Member States, with the assistance of the International Committee of the Red Cross and, as appropriate, in consultation with the Secretariat, for submission to the General Assembly at its seventy-third session;

14. *Decides* to include in the provisional agenda of its seventy-third session the item entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts".